



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

MARCH 13, 2007

PRESENT: Acevedo, Koepp-Baker, Davenport, Escobar, Lyle, Mueller

ABSENT: Benich

LATE: None

STAFF: Planning Manager (PM) Rowe, Senior Planner (SP) Marlatt and Minutes Clerk Johnson.

Vice-Chair Escobar called the meeting to order at 7:00 p.m., inviting all present to join the pledge of allegiance to the flag.

DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

With none present to address matters not appearing on the agenda, Vice-Chair Escobar closed the public comment period.

MINUTES:

FEBRUARY 27,
2007

COMMISSIONERS MUELLER/KOEPP-BAKER MOTIONED TO APPROVE THE FEBRUARY 27, 2007 MINUTES WITH THE FOLLOWING REVISIONS:

Page 2, paragraph 4, line 6: ~~and money~~

Page 2, paragraph 6, line 2: ~~the components of~~

Page 3, middle: ~~plodding~~ *prodding*

Page 4, 2nd dash: ~~approval~~ *submittal*

Page 6, lines 1 and 2: ~~Measure C Measures E, P, and ”; were awarded~~ *are now awarded earlier*

Page 7, paragraph 2, line 5: *...fiscal year.*

Page 7, paragraph 6, line 3: *years*

Page 8, paragraph 2: *...pushed out.*

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THE MOTION CARRIED (4-0-2-1) BY THE FOLLOWING VOTE: AYES: KOEPP-BAKER, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: ACEVEDO, DAVENPORT; ABSENT: BENICH.

PUBLIC HEARING:

1) ZA-06-06/UP-06-06: Request for a rezoning from HC (Highway Commercial)/PUD (Planned Unit Development) to HC (Highway Commercial) and a Conditional Use Permit to allow an approximately 3,500 sq. ft. automotive service facility proposed for a vacant 0.66 ac. parcel southwesterly of the Walnut Grove Dr./Laurel Rd. intersection.

SP Marlatt presented the staff report, noting the request is inclusive of two 2 issues:
a rezone [from PUD (HC) {Planned Unit Development /Highway Commercial to HC (Highway Commercial)
a Conditional Use Permit (CUP)

SP Marlatt explained that the Planning Commission was being asked whether to recommend the actions to the City Council at this meeting. The City Council, he said, would ultimately decide the appropriateness of four actions: the two bulleted above as well as a Site Review Permit and a Minor Exception to reduce parking requirements.

The site is located in the Walnut Grove PUD, which includes a few developed parcels and 2 large vacant pieces totaling approximately 11 ½ acres not yet identified for use. SP Marlatt advised that this PUD was established in 1991 with subsequent amendments to include the auto dealership site. Although there is existing development in the PUD, there is no precise development plan because this development predated this requirement. SP Marlatt continued by telling the Commissioners that planning for the Walnut Grove PUD would occur this year because applications for General Plan amendments for the two large properties had been received. SP Marlatt reminded that a couple of years ago the PUD had been the subject of discussion at the City Council and subsequently staff had been directed to remove the developed properties south of Walnut Grove Drive, including the Jiffy Lube site, from the PUD designation.

As to the CUP, SP Marlatt advised, the applicant is proposing a 3,500 ft vehicle service station (Jiffy Lube). The site has 3 frontages, SP Marlatt said, with the building proposed for the west side of the site. Access off Laurel Street will be through an easement across the northeast corner of the Scramblez parcel. As to parking, SP Marlatt clarified, two issues can be identified: number and location of spaces. He explained that when the application was originally submitted, it was deficient by 3 spaces. The Zoning Ordinance allows a Minor Exception to be granted for up to a 25% reduction in parking (or 4 spaces, in this case). Staff believes that based on the applicant's statement of operations, with the maximum number of employees on site being eight coupled with the fact that a majority of the customers will either be waiting service behind the bays and during servicing will be in the waiting rooms, there should be enough parking during peak demand hours.

At the ARB meeting last month, he indicated that parking supply was increased by an additional space bringing the deficit down to two spaces. This was due to a staff recommendation that the building be shifted to the east with two of the spaces moved

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to the west of the building which would allow employees to park the cars of those occasional customers who patronize the adjacent businesses without having to park the cars on the street or have to circle around the site to access the parking lot. The applicant was opposed to this recommendation as it would reduce their visibility off Dunne. The ARB ended up striking a compromise requiring the applicant to simply add one space, which could be done without moving the building and maintaining the required 15 foot buffer between the space and the property line fronting the street.

Noting that the proposed building is 400 feet from the nearest residential uses, SP Marlatt said there would not be any issues associated with noise. The building is designed, he said, with a 'Craftsman style' so it will be compatible with other recently-constructed buildings in the area.

SP Marlatt indicated the Initial Study had been prepared and resulted in a Mitigated Negative Declaration with no comments received.

Commissioner Lyle indicated he had communicated to staff earlier some of his concerns:

- is the additional noise likely to be objectionable for Scramblz?
- there is need to reduce the currently-proposed 135 degree turn into the property from southbound Laurel – which is an awfully sharp turn; would it be amiable to propose that the SE corner of the project have a rounded paved section, replacing some of the landscaping that sharp turn? (Traffic Engineer says 'ok')
- will the queue space for left turns into Laurel still be sufficient?
- regarding the CUP: the hours of operation should be included (other Commissioners indicated thinking this important, too; hours of operation will be added as a Condition)
- regarding the CUP: staff and ARB have recommended a condition for Craftsman-style parking lot fixtures with brick bases

Commissioner Mueller asked if there were other issues which members of the ARB were concerned about? SP Marlatt said the report had covered concerns of that body.

Vice-Chair Escobar opened the public hearing.

Andrew Shiflet, 661 Montgomery, San Francisco, was present as a representative of O+P Architects. Mr. Shiflet said he was present to help answer questions.

With no others present to address the matter, the public hearing was closed.

Commissioner Mueller led discussion through comparison of this installation to another in town (on Tennant Avenue) and saying the Commissioners 'may want to address exit parking' with that being cause for concern at the Tennant Avenue business. Commissioner Lyle pointed out that more intensive work is done at that facility; it is larger, and performs 'longer maintenance'. Commissioner Acevedo questioned if the location of the parking matters? Commissioner Mueller expressed concern that parking would not be available on the entrance side and if 4 - 5 cars are waiting at the front of bays, that might cause difficulties, again comparing this installation with the one on Tennant.

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Vice-Chair Escobar reopened the public hearing and asked Mr. Shiflet to return to the podium.

Mr. Shiflet said, that to his knowledge, the applicant had studied Jiffy Lubes in different areas and had determined:

- there will be two rows basically a vehicle will be 'staged' as another customer leaves
- the front two bays will be available on an on-going basis
- no other work except lubes and tire changes will be offered
- the service is 'quick' with the customer invited to the lobby as the car done to complete paperwork and pay
- approximate length of time for service: 10 - 15 minutes
- statement of operation had been submitted as part of the operation indicating approximately 40 customers per day, with an average per hour of 4 – 6 customers

Vice-Chair Escobar noted it would be unlikely that customers would go to other business in the area as the service would not lend to lengthy visits from this facility. Vice-Chair Escobar continued as he noted that the other facility was a more intense business, with some service taking as long as an hour 'to get things done'. "It doesn't appear this would encourage long time service," Vice-Chair Escobar stated.

Commissioner Koepp-Baker inquired if there were plans for limiting future business to only lube jobs and if any late evening drop offs were planned. PM Rowe explained the businesses hours.

Vince Burgos, 370 Castendada Ave., San Francisco, was present to speak for the engineering firm working on this project. "There will not be a drop off facility and each transaction typically closes with payment of service," Mr. Burgos explained.

With no others present to speak to the matter, the public hearing was closed.

Commissioner Lyle reminded that there was need to delineate the hours of operation and correction of the severe turn into any recommending Resolutions.

COMMISSIONER ACEVEDO MOTIONED TO ACCEPT THE MITIGATED NEGATIVE DECLARATION AS PRESENTED, INCLUSIVE OF THE FINDING AND CONDITIONS CONTAINED THEREIN. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION WHICH PASSED (6-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH.

COMMISSIONER ACEVEDO OFFERED A RESOLUTION RECOMMENDING APPROVAL OF ZONING AMENDMENT APPLICATION NO. ZA-06-06: LAUREL – JIFFY LUBE TO AMEND THE ZONING DESIGNATION FROM PUD (HC) (PLANNED UNIT DEVELOPMENT /HIGHWAY COMMERCIAL) TO HC (HIGHWAY COMMERCIAL) ON A 0.66-ACRE PARCEL ADJACENT TO AND SOUTHWESTERLY OF THE WALNUT GROVE DRIVE/LAUREL ROAD.

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INTERSECTION. COMMISSIONER LYLE SECONDED THE MOTION, NOTING THE FINDINGS AND CONDITIONS CONTAINED THEREIN. THE MOTION PASSED (6-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH.

COMMISSIONER ACEVEDO OFFERED A RESOLUTION RECOMMENDING APPROVAL OF A CONDITIONAL USE PERMIT (CUP) TO ALLOW AN APPROXIMATELY 3,500 SQ FT. AUTOMOTIVE SERVICE FACILITY ON A VACANT 0.66 ACRE PARCEL ADJACENT TO AND SOUTHWESTERLY OF THE WALNUT GROVE DR./LAUREL RD. INTERSECTION. COMMISSIONER LYLE SECONDED THE MOTION, NOTING THAT SECTION 6 (EXHIBIT A) SHOULD BE MODIFIED:

- to reflect hours of operation**
- reduction of the 130 degree turn**

Commissioner Davenport asked for discussion of:

- concerns of petroleum rated fire suppression system (additional, special sprinkler system needed?)
- containment of spillage (oil storage barrels which may create a large spill) and
- training of personnel to handle such a large scale event

Commissioners discussed:

- requirements of the Municipal Code
- County Fire signed off on fire requirements
- adequate collection of (potential) spillage asking question what is maximum capacity of collected petroleum based and does staff have correct training for the petroleum spillage

Vice-Chair Escobar re-opened the public hearing.

Responding to questions, Mr. Burgos said he was not in a position to comment on these matters.

Commissioner Mueller indicted the possibility of having the applicant document to the County Fire Department that the staff was trained to care for emergencies.

Mr. Burgos indicated that when he began work on the project, it was questioned as to why the building needed to be sprinklered and was told that water pressure issues were cause of concern.

Commissioner Davenport reiterated that his concern was not just fire suppression but environmental issues as well.

There being no others present to address the matter, the public hearing was closed.

Commissioner Acevedo noted that the Initial Study (page 25) tells that guidelines are in place in Santa Clara County for hazardous materials and that the Fire Department does review each project submitted.

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PM Rowe pointed out that in the Standard Conditions, there is provision on page 20 (Other Conditions, item h) which details the procedure for clean up of oil spills and detail the operations thereto.

Commissioner Davenport stressed his concern is of major spills, not daily 'mop-ups'. PM Rowe said that typically the fire department requires a contained area so runoff does not occur. Commissioner Mueller interjected that also there are requirements for permitting which contain language appropriate to hazardous materials, so that permit is where the applicant will address much of this.

THE MAKERS OF THE MOTION AMENDED THE MOTION TO INCLUDE PAGE 11, 14B, WHICH IS TO BE CHECKED, AND THE WORD SITE FILLED INTO THE BLANK.

THE MOTION CARRIED (6-0-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH.

2) ZA-07-03: CITY OF MORGAN HILL-OFF-SITE SIGNS

PM Rowe advised that all the actions regarding this matter are going to the City Council as advisory.

A request to amend Chapter 18.76 (Sign Code) by modifying the eligibility requirements for freeway signs, allowing tenant identification on freestanding monument signs in small shopping centers, and to establish a process to allow an off-site business to be located on a freestanding monument sign.

SP Marlatt gave the staff report, noting that the Planning Department has been working with the City Council's Economic Development Subcommittee to eliminate economic inhibitors in the City. Two of those inhibitors, he said, included the Sign Ordinance, which is before the Planning Commission this evening. Specifically, he said, this item has to do with:

- the eligibility requirements for freeway signage
- the prohibition of small shopping centers to have tenants listed on freestanding monument signs; and
- the ability of an offsite business to advertise on a monument sign
-

A goal of the Planning Department in working on the freeway sign is to address eligibility requirements. SP Marlatt explained the current size for non-freeway-dependent uses (15,000 square feet) and locations of allowable signs (within 200 feet of the freeway right of way).

Commissioners discussed with staff:

- signage for Trader Joe's and other business nearby [currently 13,500 square feet and 300 feet from the freeway right of way]
- inventory of all freeway signs in town (currently 10 are shared use signs and 7 of those have room for additional signage)
- nonconforming uses which will become conforming with these amendments, increasing the distance requirements
- commercial recreational uses (Aquatic Center and Regional Soccer Field) will have the ability to utilize freeway signs as well

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- there will be an additional 35 parcels eligible under this proposal (including the aquatic and soccer centers)
- findings completed by the Community Development Director (already in place) to address additional freeway signage.

SP Marlatt provided a brief overview of the existing freeway sign ordinance, which was established in the early 1990s. Responding to a question, SP Marlatt noted that 'freeway dependent' is not currently defined. However, in reviewing the file from the previous freeway sign amendment, the intent was to include those uses listed in the Highway Commercial zoning district. The amendments currently before the Commission include a paragraph listing those uses allowed in the Highway Commercial district, excepting retail because it is addressed as a non-freeway-dependent use and art galleries because they didn't meet the "straight faced" test of freeway dependent.

SP Marlatt explained that a second economic inhibitor had been identified as small shopping centers which do not currently allow tenants with less than 14,000 sq ft to be included on a monument sign. That matter, SP Marlatt said, had been taken to the ARB, where it was deemed 'acceptable for three tenants to be listed on a sign subject to review by the ARB subcommittee.'

Lastly, SP Marlatt reminded the Commissioners of a recent issue (not an economic inhibitor, but of concern) regarding the storage facility and day care use in a PUD on Dunne Avenue, when the City allowed the storage facility to place identifying signage on the day care center's monument sign. He said that this amendment will address properties not in a PUD. "For a tenant to go on an off-site monument sign, they would have to secure a CUP with findings," SP Marlatt said, as he detailed those findings. By requiring a discretionary CUP in conjunction with the required findings, he did not believe that there would not be proliferation of signage, he said.

It was noted that two e-mails regarding this matter had been received – and distributed to the Commissioners - from owners in the Walnut Grove PUD. The suggestions received therein were discussed.

Commissioner Lyle called attention to Exhibit A, page 3 (18.276.250 2 b), and expressing the belief that the language creates confusion. "It can be easily read to say that these smaller shopping centers are not subject to the limitations stated just above the insert, and could therefore get up to an 84 sq ft sign. It would be much clearer if the change became a new paragraph and more specifically stated its size restrictions. In my opinion, any small center should have *at most* a 48 sq ft sign with an 8 foot high limitation," he said. Continuing with concerns regarding freeway sign eligibility, he said, "The staff report indicates that there will only be thirty-three additional parcels. It appears they have only been counting the parcels that qualify under the current zoning. With a PUD, other sites could be zoned and greatly increase that number." [Staff acknowledged that was a correct statement.]

Commissioner Mueller inquired about a CUP for offsite, what conditions would be required for the amended signs? SP Marlatt responded, "There would have to be three findings:

- geographically located such that there is limited visibility from an arterial

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- offsite signage necessary and appropriate for competitive purposes
- not have adverse effect on the surrounding area

Commissioner Mueller asked if that was spelled out in the Ordinance. [Yes; in section 18.76.270 and the paragraph directly above same.]

Having the map displayed with the potential for land mass inclusion for sign location, the Commissioners discussed:

- eligibility of parcels completely within the 750 ft perimeter [parcels above Tennant and Murphy]
- consequences of drawing the 750 foot line: other properties may see the viability and ask for inclusion of sign placement based on a small amount of the property being within the 750 feet distance
- effort by staff to take in a good portion of properties at freeway interchanges
- potential for City to consider other distances (+/- 750 feet)
- prospect of looking at County signage close to the City: need to look at consistency
- not focusing on what is in the City
- only looking at eligibility requirements, not height location
- possible preference of 500 feet – not 750 - under existing zoning that could include 19 additional properties

Vice-Chair Escobar opened the public hearing.

Attorney Del Foster, 30 Keystone Avenue, was present to represent Laurel Road property owners. Mr. Foster said he also been approached by Traders Joe's and Jiffy Lube where there is interest in raising the monument sign. "However, there is very little sign space left," Mr. Foster declared. He suggested having the City think of increasing by a modest amount the surface area for signage. "If you want to help business, this would be an easy way to do it," Mr. Foster stated.

Laura Brunton, 525 Bonnie View Court, indicated she was present to represent the Chamber of Commerce and told the Commissioners the Chamber appreciated the review of signage and were hopeful the result would be enhanced business.

With no others present to address the matter, the public hearing was closed.

Commissioner Lyle raised the issue: Currently, as the amendments are stated, a center with one tenant of 20,000 feet and two tenants of 12,000 (44,000 sq ft total), gets only 36 sq ft of useable space *and only 1 tenant may be on the sign* whereas a small center with three 5,000 sq ft clients (15,000 total) gets 48 sq ft sq ft *and all 3 tenants may be on the sign* (with a possibility of 84 sq ft as the current paragraph reads). The table needs to be modified, perhaps allowing a larger center to refigure calculations for smaller client spaces, permitting gain of square footage and some additional space on a sign. Continuing, he asked about Exhibit A, page 5: How was the 750 feet distance determined? "750 (or less) might be appropriate for interchange locations, but not for the length of all of Highway 101 through the City." Commissioner Lyle asserted.

Other issues discussed included:

- concern of having an additional 33 properties eligible for freeway signage

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- potential for those 33 properties to create visual clutter and impact existing / future residential neighborhoods.
- having the City retain the height and size for the non-depressed highway areas
- belief that the current limits were due to visual obstructions; much of the new area does not have such obstructions.
- existing mall-type installations with several tenants
- sizes of the signs
- clarification that the amendments are not limited to freeway signs

SP Marlatt clarified that small business centers may not have an anchor but can allow certain number of tenants to be included in signage. Lengthy discussion followed regarding sizes of signs for smaller business centers, with a need for identification of the centers and occupants. Much of the discussion centered on the arbitrary 14,000 sq ft recommended versus smaller sizes, perhaps 12,000 sq ft. to be consistent with the freeway sign requirement. Commissioner Mueller cautioned that the amendments are not limited to freeway sites and could easily be located all over the City.

Commissioner Lyle asked the reason why signs have different square footages now: 12,000 sq. ft. for freeway signs vs. 14,000 sq. ft. for monument signs. SP Marlatt clarified that the origin of the 14,000 sq ft requirement for monument signs was unknown, but that the freeway sign eligibility requirement came from a uniform sign program for a shopping center on Cochrane. SP Marlatt said that the reason for reducing the required size for a non-freeway dependent use is to assist Trader Joe's.

Discussion continued regarding specific sites and the importance of placing signs where the City wants businesses to be located. Enablement of monument sign within the amendment(s) was discussed, along with potential identification for which businesses qualify for monument signs, that being a concern of some of the Commissioners.

Commissioner Mueller remarked that this particular section could now permit monument signs. Vice-Chair Escobar asked SP Marlatt, "When crafting the amendments, what did you have in mind, was there sampling or identified numbers of locations that would benefit from the amendment? Sp Marlatt responded, "No, but one small center had an issue with this prohibition resulting in the identification of this restriction as an economic inhibitor." Vice-Chair Escobar commented that the City has knowledge of 'one known facility' and worked to help that facility, but it did not appear that consideration was given to 'unintended consequences'.

Commissioner Acevedo asked if any sign needing 'qualification' would have to be acceptable by the ARB subcommittee? SP Marlatt replied, "We do not anticipate any sign will be rubber stamped." Commissioner Mueller agreed, then said, "But we may end up with a proliferation of signs that identifies strip malls. We appear to be getting more signs than monument signs." Commissioner Acevedo reminded that now the City has a 'zero set back policy' so there might not be room for a monument sign. SP Marlatt advised that stores with 'stand alone basis' are currently allowed to have monument signs. "Is that for small a collection of retailers?" Vice-Chair Escobar asked. (No)

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Commissioner Lyle stated that the requirements for freeway signs and monument signs are different. "Should they be the same or different? That is question," he said. Vice-Chair Escobar reminded that the rationale for the amendment is for Traders Joe's benefit.

SP Marlatt said he wasn't sure if 14,000 sq ft is a magic number. Commissioner Koepp-Baker asked if the intent is a minimum of 12,000? Commissioner Lyle joined the discussion by saying the 750 feet distance from the freeway may be too far.

Commissioner Mueller continued to express concern regarding parcels 'to be eligible' many present the problem of having only a small portion of land within the currently identified strip required, e.g., the way the Code is written it will be if the first ten-feet touches, then the entire 20 acres are eligible for having the signage. He stated that a major problem would be with East Murphy Avenue. "I don't think parcels should be eligible that far east of the freeway," Commissioner Mueller said. Commissioner Acevedo indicated he did not think that would be an issue with the zoning in place. Commissioner Lyle said, "But the zoning could change." Commissioner Mueller reiterated, "Many parcels will be barely eligible but that could change to many and that would be a mistake on East Murphy."

Discussion returned to signage for the Aquatic Center and the Regional Soccer Fields. Commissioner Lyle said he could see why the City wanted to include those, but 600-feet could do that. PM Rowe agreed, saying, "If the City wanted to capture those properties, 600 feet could do it. Discussion continued regarding the locations of the public facilities.

Turning again to the potential numbers of increased signage, Commissioner Lyle repeated concern of the 'huge increase'. "I shudder to think of signs becoming eligible with minimal property attachment – this seems excessive," he said.

Commissioner Koepp-Baker asked why business would want to locate, if they could not have a sign? Commissioner Lyle suggested that might give the impression of encouraging businesses to locate at spots where the City may not want them to be. Commissioner Acevedo suggested concerns might be misplaced with property not in the City limits. Commissioner Lyle reminded again of the potential for rezoning.

Commissioner Mueller stated another concern: "Impact on properties off of the freeway. I don't think we have identified how many places may suddenly have dramatically different signage."

PM Rowe suggested the Commissioners could consider the small shopping center monument sign amendment through further study so a better sense of necessity could be developed. Vice-Chair Escobar asked what level of urgency was involved. SP Marlatt spoke on the small center signage indicating that to address the potential for a proliferation of this type of signage, the City require approval of a CUP with greater level of scrutiny. Vice-Chair Escobar commented it might be difficult to approve one sign and deny another. He said he thought a concern would be identifying potential proliferation. With respect to freeway signage, he addressed the difficulty of limiting the number of signs unless a system for "maxing out" could somehow be delineated.

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Several other issues were discussed without resolution:

- assisted living center
- signage nearby residential areas may not want to attract
- definition of freeway dependent business

Vice-Chair Escobar polled the Commission with the following result:

In favor of 750 foot distance from freeway	600 foot distance from freeway
Commissioners Koepp-Baker, Acevedo, Davenport	Commissioners Lyle, Muller, Escobar

Vice-Chair Escobar said he felt it would be unfortunate to send this matter to the City Council without a recommendation. Vice-Chair Escobar asked for discussion regarding the objection to the 600 sq ft distance from freeways. The following was offered:

- 750 feet addressed removal of economic inhibitors
- a reduction from 750 feet to 600 feet, would move the line to the west side of Murphy
- requirement that only a portion of the property within the specified distance would render the property eligible to have presence on a freeway sign
- desire to include more businesses
- concern of proliferation – could limit number of signs if in future proliferation, set cap on number of sign along of freeway set limit later not a ‘good feel’ for differences
- need for legal authority to limit number of freeway signs

Vice-Chair Escobar reminded that staff recommends inclusion of the Aquatic Center and the Regional Soccer Field. “We could drop to 600 - 650 and still have those facilities included,” he said.

Other issues discussed included:

- possible consensus: remove objectionable section on page 3
- request from floor to increase total size of signs
- lack of immediate need for action for small shopping center monument signs
- what would be excluded if the limit were set at 600 feet

PM Rowe spoke indicating there appeared to be consensus on the signage for the smaller shopping centers and that could reach conclusion at a later date. - Commissioners are split on the 750 vs. 600 foot issue. Commissioner Acevedo indicated willingness to change to 600-feet but still felt the proliferation issue to be unresolved. PM Rowe said the issues of:

- proliferation
- limiting numbers of signs available with minimal property encroachment
- smaller centers
- increase size of signs could be returned to the Commissioners for action.

COMMISSIONER MUELLER MOTIONED TO EXCLUDE THE SMALL SHOPPING CENTER MONUMENT SIGN AMENDMENTS, DECREASE

THE DISTANCE FROM FREEWAY REQUIREMENTS FROM 750 FEET TO 600 FEET, AND DIRECTING STAFF TO BRING BACK INFORMATION REGARDING THE ABILITY TO LIMIT THE NUMBER OF FREEWAY SIGNS WHILE INCREASING THE SIZE AND HEIGHT OF SUCH SIGNS. STAFF WAS ALSO DIRECTED TO BRING BACK INFORMATION RELATIVE TO THE NUMBER OF SHOPPING CENTERS IN THE CITY THAT WOULD BE AFFECTED BY THE SMALL SHOPPING CENTER SIGN AMENDMENTS AND THE LIMITS ON SIZES OF SIGNS. COMMISSIONER LYLE SECONDED THE MOTION WHICH PASSED (4-2-1) WITH THE FOLLOWING VOTE: AYES: ACEVEDO, ESCOBAR, LYLE, MUELLER; NOES: KOEPP-BAKER, DAVENPORT; ABSTAIN: NONE; ABSENT: BENICH.

3) AMENDMENT TO DEVELOPMENT SCHEDULES FOR MEASURE “C” PROJECTS AND PROCEDURES FOR TRADING BUILDING ALLOTMENTS IN DIFFERENT FISCAL YEARS BETWEEN MEASURE “C” PROJECTS

PM Rowe presented the staff report, noting the development schedule template which had been revised based on discussion at the previous meeting. He distributed the amendment to developer schedules for Measure C projects and procedures for trading building allotments in different fiscal years between Measure C projects. This item had been continued from the last meeting to tonight with the following noted:

- Commission consensus indicated that the template would apply to subsequent year allotments [page 2 {total text}] had been changed {the two paragraphs following section titled *First Year Fiscal Year Allotment*
- extended schedule {April deadline to start construction for projects requiring outside agency approvals}
- developers wanting greater number of units in the first year, must have the building permits obtained by September 30, 2008 for at least half of building allotment (and the developer for the project must be under contract, etc)
- subsequent year allotment: Section IV of the schedule was adjusted to increase the date by one month {adjustment so that building permit obtain changed to autumn date, with a spring commence construction moved to November, 2009}
- for developers wishing to start a greater number of units in the second year, the balance of the fiscal year allotment must be obtained no later than March 31, 2010 (changed from March 31, 2009)

Residential allotment transfers requests were received from projects represented by: Don Lapidus, Craig Miott and John Telfer, all of which have indicated willingness to accept transfers to receive fiscal year 2007-08 allotments in exchange for their second and third year allotments was discussed. PM Rowe advised that the Department has not received any request from other developers to trade their fiscal year 07/08 allotments for fiscal year 08/09 or 09/10 allotments.

Commissioners discussed with staff:

- ‘limits on transfer’
- not sales – trades only
- transfer may apply to partially allocated and fully allocated developments
- on-going and first time projects may transfer building allotments; however first time, new projects must have an approved vesting tentative map and approved development agreement
- at the next Commission meeting, staff will have completed a survey and will plan to identify projects which may be amenable to transfer

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- the extensions to the development schedules being requested by developers which will be discussed at the next meeting

Commissioner Lyle said if there are large numbers of units requesting extension, the Commission may go into the mode of forcing trades/transfers. Commissioner Mueller said he would be very hesitant to make arbitrary decisions and the need for transfer may be based on financial considerations. Commissioner Lyle said he thought the City should take the position of saying, "Prove to us you can do the projects." PM Rowe said if the developer is asking for a six-month extension, it could be a 12-month trade. The length of delay could be considered, he said.

PM Rowe spoke on the intent of staff's plan to pull out the development schedules from each project's development agreement and have action on the entire group of applications that have been received. However, he said, staff has been finding that the extension requests vary greatly and therefore the projects will be addressed as individual requests.

Vice-Chair Escobar opened the public hearing.

Dick Oliver, 385 Woodview Ave #100, was present representing Dividend Homes and said he had 'several comments', the first regarding: Page 3 (revised) item V ** commence construction (staff and Commissioners concurred).

Mr. Oliver spoke at length on the viability spacing development based on market conditions. "I am concerned that the template may stifle well-intended efforts," Mr. Oliver said. He continued by reiterating problems experienced with restraints on financing and/or dealing with the State Department of Fish and Game – and suggesting staff could recommend flexibility upon having the conditions of difficulty explained. Mr. Oliver stressed the need for flexibility of the template. "If market conditions don't allow action, historically there has been only one time we were denied an extension, with that precedence we have concerns of creating additional staff work also paperwork monitoring deadlines," Mr. Oliver said.

Commissioner Lyle reminded that the City wants to get units built in the year of allotment. Mr. Oliver said for example, in this fiscal year, all of a sudden, even though our project has been on-going the Santa Clara Valley Water District has raised issues we have not seen have before. Mr. Oliver told of several projects which needed to get started and he knew in October that he would not be able to start in June. "We knew way ahead of time what the problem is, such as the demand of a new EIR on an on-going project by the Santa Clara Valley Water District. However, if there is no excuse of why the developer needs an extension, the Planning Commission should come down hard on the developer," Mr. Oliver said.

PM Rowe commented that, "When looking at the extension requests, the template may not always fit, so we need to look at each<development> individually."

Craig Miott, 2532 Santa Clara St., Alameda, spoke with the Commissioners and has not received a revised copy of the template. Mr. Miott said as to the transfer allocation he would like to *also* see transfers for other than the first year. "I see a reason why there is even more need for more flexibility," he said. Commissioner

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Mueller responded that a developer can't transfer allocations this fiscal year, but in the future there may be opportunity for maneuvering. "This transfer system is to be an on-going policy," Commissioner Mueller said. "At any time in future allocations can move about as warranted."

PM Rowe reminded that one of the changes recommended from the last meeting was Obtain Building Permit from 9/30/08 to 3/31/09. As a result, the Planning Commission wanted performance commitments in the fall and so moved from 1/31 to 10/31 the deadline for filing for final map.

Mr. Miott suggested moving {under III. Final Map Submittal: Map, Improvements, Agreement and Bonds from January 31, 2008 to February 28, 2008. <Staff and Commissioners concurred>

Noting no others present to address the matter, Vice-Chair Escobar closed the public hearing.

COMMISSIONER MUELLER MOTIONED TO APPROVE THE AMENDMENT TO THE STANDARD DEVELOPMENT SCHEDULES FOR MEASURE "C" PROJECTS AND PROCEDURES FOR TRADING BUILDING ALLOTMENTS IN DIFFERENT FISCAL YEARS BETWEEN MEASURE "C" PROJECTS WITH MODIFICATION OF THE DATES AS OUTLINED DURING DISCUSSION. COMMISSIONER KOEPP-BAKER SECONDED THE MOTION WHICH PASSED (6-0-1) WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; BENICH WAS ABSENT.

4) CALTRANS FENCING AT COCHRANE ROAD/HIGHWAY 101

PM Rowe presented the staff report, noting this issue was of great concern to Chair Benich. Commissioner Mueller suggested there was a need – in order to get money to replaced Caltrans fencing at Cochrane and 101 – to add this item to the CIP. He also suggested deferring the item to the next meeting so Chairperson Benich could be present.

COMMISSIONER MUELLER MOTIONED TO CONTINUE THE MATTER OF CALTRANS FENCING AT COCHRANE ROAD/HIGHWAY 101 TO THE NEXT REGULARLY SCHEDULED MEETING. COMMISSIONER DAVENPORT SECONDED THE MOTION, WHICH PASSED (6-0-1) BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: BENICH.

ANNOUNCEMENTS:

The City Council at a recent meeting considered and imposed a moratorium on medical marijuana dispensaries in the community. The City has no current ordinance for this use, he said. A State Proposition was approved by voters several years ago allowing marijuana to be purchased for medical purposes by prescription. The Council, PM Rowe said, voted for a 45-day moratorium and appointed a team of staff to look at all available options regarding the regulation of medical marijuana dispensaries. Staff will conduct this study while the moratorium is in place, and will report back to the City Council.

Commissioner Mueller said he had been informed there was a web site providing a

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list of what (businesses) would be going into the new Cochrane/101 shopping center.

Other Commissioners had limited information regarding the businesses going into the center. Commissioner Davenport said he had talked with Business Assistance and Housing Services Director Toy who gave indication of the web site. "It appears," Commissioner Davenport reported, the developer is responsible for the site, not the City." SP Rowe said he would provide the Commission with the up to date of confirmed tenants and the web address for the shopping center information.

ADJOURNMENT:

As there was no further business to come before the Commissioners at this meeting, Vice-Chair Escobar adjourned the meeting at 9:25 p.m.

MINUTES PREPARED BY:

JUDI H. JOHNSON, Minutes Clerk